

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

McAARON MARTIN,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:07cv725
vs.	:	
	:	District Judge Susan J. Dlott
WARDEN CHILLICOTHE CORRECTIONAL :	:	
INSTITUTION,	:	
	:	
Respondent(s).	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Hogan. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on August 26, 2008 a Report and Recommendation (Doc. 22). Subsequently, the petitioner filed objections to such Report and Recommendations (Doc. 27).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Accordingly, petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) is **DENIED** with prejudice.

A certificate of appealability will not issue with respect to the claims alleged in Grounds One, Three and Four of the petition, which this Court has concluded are waived and thus barred from review on a procedural ground, because "jurists of reason would not find it debatable as to

whether this Court is correct in its procedural ruling” under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). A certificate of appealability also will not issue with respect to the claim alleged in Ground Two of the petition, which was reviewed on the merits herein, because petitioner has not stated a “viable claim of the denial of a constitutional right,” nor is the claim “adequate to deserve encouragement to proceed further.” *See Slack*, 529 U.S. at 475 (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)); *see also* 28 U.S.C. § 2253 (c); Fed. R. App. P. 22(b).

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting this Report and Recommendation will not be taken in “good faith,” and therefore **DENIES** petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

____s/Susan J. Dlott____
Susan J. Dlott
United States District Judge

—